

## **LAKE COUNTY RULES OF CIVIL PROCEDURE**

### **Rule 1. Scope and Title**

A. Scope. These rules shall apply in the Lake Circuit Court and the Superior Court of Lake County, Civil Division and Juvenile Division.

B. Title. These rules may be known as the Lake County Rules of Civil Procedure, and abbreviated as L.R.

### **Rule 2. Preparation of Pleadings, Motions and Other Papers**

For the purpose of uniformity, convenience, clarity and durability, the following requirements shall be observed in the preparation of all pleadings, motions and other papers:

A. Paper--Print, Quality and Binding. All pleadings, motions, chronological case summary entry forms, orders, process and other papers shall be neatly and legibly printed, typewritten or mechanically reproduced, on one side only, on white opaque paper. To satisfy the recordkeeping requirements of Indiana Rules of Procedure, Trial Rule 77, the print shall be of sufficient density and clarity for preservation and reproduction of microfilming, optical disk or other secondary sources. For this reason, the use of non-letter-quality printers is discouraged.

Paper and ink shall be of such quality as to withstand the test of time. All documents shall be produced on acid-free, non-thermal paper. It is recommended that a minimum of 20-pound, 25% cotton paper product be used. Documents of multiple pages shall be submitted in bound or stapled fashion, and the binding or stapling shall be at the top only. Covers or backings shall not be used.

B. Spacing of Text. Except for quotations, which shall be indented and single-spaced, the text of all pleadings, motions, orders, memoranda and other papers, shall be double-spaced.

C. Sanctions. Whenever materials submitted fail to meet the foregoing standards, the Court may impose appropriate sanctions.

D. Papers--Handwritten; Electronic Facsimile Transmission ("FAX"). Handwritten papers may be filed only if approved by the Court and a typewritten or printed true rendition thereof is filed within three (3) days thereafter and approved by the Court. Upon such approval, they shall be deemed and filed as the original, while the handwritten papers shall be retained therewith for evidentiary purposes.

Only when necessary on an emergency basis (i.e., when certified mail or other means of filing will not bring the document to the Judge's attention prior to the scheduled hearing or ruling), pleadings, motions and other papers may be filed by electronic facsimile transmission, or when specifically authorized by the Court.

E. Minute Sheets; Motion Blanks. Minute sheets and motion blanks shall no longer be used.

F. Special Judge Matters. The caption of all CCS Entry Forms, pleadings, motions, orders and other papers to be filed in a special judge case shall include in block text the words SPECIAL JUDGE and the name of the judge directly below the cause number on the caption.

### Rule 3. Filing

A. Filing and Submission Only to the Clerk; Proof of Service; Sanctions. All papers presented for filing shall be submitted to the Clerk and not to the court. All papers submitted for filing shall be mailed or delivered to the Clerk's office at the courthouse in which the case is pending; provided however, for special judge matters where the special judge is a full-time judge or magistrate serving within Lake County, all papers submitted for filing shall be delivered or mailed to the Clerk's office at the courthouse where the special judge regularly serves. All pleadings, motions and other papers submitted for filing which are required to be served under Trial Rule 5(A) shall be filed no later than three (3) days after service and shall contain proof of service pursuant to Trial Rule 5(B)(2). If such papers are filed before service, proof of service thereof shall be filed no later than three (3) business days thereafter. Upon failure to comply with this rule, the Court may, on motion of any party or on its own motion, impose appropriate sanctions.

B. Separate Motions and Orders; Order by Chronological Case Summary Entry Form; Service. Proposed orders shall be prepared and filed, separate from the pleadings, petitions, motions or other papers to which they have reference.

Orders, either routine in nature or uncontested including, for example, those setting or continuing a hearing, shall be effected by the chronological case summary entry only, which shall contain the concise substance of the order.

All orders shall be accompanied with sufficient copies and stamped, pre-addressed envelopes, so that copies may be mailed to all parties.

C. Chronological Case Summary (CCS) Entry Forms. All filings shall be accompanied by a Chronological Case Summary (CCS) Entry Form to define or identify the documents filed. The Form used should be substantially similar to Appendix A.

### Rule 4. Motions

A. Briefs. All motions filed pursuant to Trial Rules 12 and 56 shall be accompanied by a separate supporting brief. An adverse party shall have thirty (30) days after service of the initial brief in which to serve and file an answer brief, and the moving party shall have ten (10) days after service of the answer brief in which to serve and file a reply brief. With regard to all other

motions or matters submitted to the court, and so long as consistent with the Indiana Rules of Procedure, an adverse party wishing to respond shall do so within fifteen (15) days of service. The moving party shall have ten (10) days after service of the response within which to reply. Each motion shall be separate, while alternative motions filed together shall each be identified on the caption. Failure to file an answer brief or reply brief within the time prescribed shall be deemed a waiver of the right thereto and shall subject the motion to summary ruling.

B. Oral Arguments. The granting of a motion for oral argument, unless required by the Indiana Rules of Procedure, shall be wholly discretionary with the court.

#### Rule 5. Appearance by Attorney

A. Initiating Party. At the time an action is commenced, an attorney representing the initiating party must:

(1) be a member in good standing of the Bar of the State of Indiana; and

(2) file with the Clerk of the Court an appearance form setting forth the printed name, address, attorney number, the name of the firm, if any, telephone number, FAX number and signature of any attorney representing the initiating party as applicable.

B. Responding Party. At the time the responding party or parties first appear in a case, if that party or parties are represented by an attorney, the attorney must:

(1) be a member in good standing of the Bar of the State of Indiana; and

(2) file with the Clerk of the Court an appearance form setting forth the printed name, address, attorney number, the name of the firm, if any, telephone number, FAX number and signature of any attorney representing the responding party as applicable.

C. Pro Hac Vice. A person not a member of the Bar of the State of Indiana shall not generally be permitted to practice in the Civil Division of the Lake County Court System. The Court in its discretion may permit such counsel to appear only for a specifically limited purpose and time. Counsel's Motion shall strictly comply with Admission and Discipline Rule 3, and disclose such purpose, time, and all other cases in which the attorney or members of the firm have been permitted to appear in the State of Indiana.

D. Non-Resident Attorney. Whenever in its discretion the Court believes it would facilitate the conduct of litigation, the Court may require any attorney who is a member of the Bar of Indiana and who does not maintain an office in Indiana, to retain as local counsel a member of the Bar of Indiana who maintains a local office in Indiana. Notice served upon such local counsel shall constitute service upon all other counsel appearing of record for such party.

E. Withdrawal of Appearance. All withdrawals of appearance shall be in writing and by leave of Court. Permission to withdraw shall be given only after the withdrawing attorney has given a

client ten (10) days' written notice of intention to withdraw. A copy of the notice of intention to withdraw shall be attached to the motion seeking leave to withdraw. This rule may be waived by the Court if withdrawal is at the written request of the client; accompanied by the appearance of successor counsel; or for other good cause. In any event, all withdrawals shall fully comply with the Rules of Professional Conduct, Rule 1.16.

F. Withdrawal Shall Not Effect Continuance. Withdrawal, in and of itself, shall not effect a continuance of any pending matter.

Consistent with the intent of Administrative Rule 10, neither the Case File, Chronological Case Summary nor contents of the Record of Judgments and Orders may be removed from the custody of the court or Clerk; provided, however, the Case File or Chronological Case Summary, upon proper receipt, may be entrusted to an attorney with whom the Clerk is familiar for delivery to the court.

No books may be removed from the judge's chambers or law libraries maintained in the respective courthouses or by the Lake County Central Law Library.

#### Rule 7. Continuances--Extensions of Time to Answer

A. Motion. A motion for continuance, unless made during the hearing of a matter, shall be for cause, in writing and verified, with a copy thereof timely served upon opposing counsel unless the court otherwise directs. A motion for continuance may be granted ex parte only if the movant's attorney certifies to the court in writing the efforts, if any, which have been made to give notice and the reasons supporting his claim that actual notice should not be required.

B. Time for Filing. A motion for continuance must be filed as soon as possible after the cause for continuance is discovered, and not later than ten (10) days before hearing or trial, unless the reason therefor is shown by affidavit to have occurred within that period.

C. By Agreement of Counsel. An agreement by counsel to continue the hearing of any pending matter shall be signed by both counsel and parties (or proof of written notice to the parties in lieu of their signatures), and filed at least ten (10) days before hearing or trial, or such shorter period as the court in its discretion may allow.

D. Automatic Extension for Answer. Provided it is timely filed, the mere entry of appearance by a party or counsel in response to a summons in an action that requires an answer shall effect an extension of thirty (30) days from the filing thereof within which to respond. This provision is inapplicable to actions in replevin and ejectment.

#### Rule 8. Discovery

A. Commencement and Extensions. In general, counsel are expected to begin discovery promptly and shall be granted extensions only upon a showing of diligence and good cause.

B. Interrogatories. Interrogatories shall be tailored specifically to the cause in which they are served and numbered consecutively to facilitate response. No party shall serve on any other party more than thirty (30) interrogatories or more than thirty (30) requests for admission (other than requests relating to the authenticity or genuineness of documents in the aggregate), including subparagraphs, without leave of court. Subparagraphs shall relate directly to the subject matter of the interrogatory or request for admission. Any party desiring to serve additional interrogatories or requests for admission shall file a written motion setting forth those proposed and the necessity therefor.

C. Attorney Conference. Strict compliance with Trial Rules 26 through 37 is required. The discovery process is intended to be largely self-actuating, with minimal court supervision. Therefore, the court will not rule on motions related to discovery disputes unless moving counsel represents that, after personal or telephonic conference in good faith effort to resolve differences, counsel are unable to reach accord. If counsel advises the court, by way of motion or response thereto, that opposing counsel has refused or delayed resolution of the discovery dispute, the court may, after hearing, impose appropriate sanctions.

#### Rule 9. Pre-trial Procedure

A. Initial Status Conference. Upon motion of any party or the court, an initial status conference shall be scheduled and held within six (6) months of the filing of any Complaint in a civil plenary or civil tort case. Each party shall be represented at this conference by an attorney familiar with the case, who shall be prepared to discuss and enter into stipulations concerning:

- (1) the exchange of lists of witnesses known to have knowledge of the facts supporting the pleadings. The parties thereafter shall be under a continuing obligation to advise opposing parties of other witnesses as they become known;
- (2) the exchange of all documents, and any other evidence reasonably available, contemplated for use in support of the pleadings;
- (3) a discovery schedule;
- (4) the necessity for additional conferences in complex litigation; and
- (5) the necessity for amendments to the pleadings and the filing or hearing of dispositive motions. Absent agreement, the court shall schedule the filing, briefing and hearing thereof.

B. Case Management Order. At the conclusion of the initial status conference, the court shall enter a case management order setting forth:

- (1) a time limit for completion of discovery;
- (2) a time limit for joinder of additional parties and amendment of pleadings;

- (3) a time limit for filing all pre-trial dispositive motions;
- (4) the scheduling of a pre-trial conference; and
- (5) any other matters which the parties or the court have seen fit to address.

C. Mandatory Pre-Trial Conference. A pre-trial conference shall be held in every civil plenary and civil tort action, at which each party shall be represented by the attorney who will conduct the trial.

The parties shall exchange written lists of witnesses and photocopies of exhibits, together with contentions and statements of issues of fact and law, at least thirty (30) days prior to the pre-trial conference. Counsel for the plaintiff shall prepare a proposed pre-trial order, which shall be executed by counsel for all parties and filed not later than five (5) days prior to the pre-trial conference. The pre-trial stipulation shall set forth in the following sequence:

- (1) the jurisdiction of the court;
- (2) the pleadings raising the issues;
- (3) a list of motions or other matters requiring action by the court;
- (4) a concise statement of stipulated facts, with reservations, if any;
- (5) a concise statement of issues of fact which remain to be litigated;
- (6) a concise statement of issues of law which remain for determination by the court;
- (7) the plaintiff's contentions;
- (8) the defendant's contentions;
- (9) the plaintiff's numbered list of trial exhibits;
- (10) the defendant's numbered list of trial exhibits;
- (11) the plaintiff's numbered list of trial witnesses, with addresses. Expert witnesses shall be so designated;
- (12) the defendant's numbered list of trial witnesses, with addresses. Expert witnesses shall be so designated; and
- (13) the estimated length of trial.

When, for any reason, the pre-trial stipulation is not executed by all counsel, each shall file not later than five (5) days prior to the pre-trial conference a written statement of the reason therefor accompanied with a proposed pre-trial stipulation.

D. Pre-Trial Order. At the conclusion of the pre-trial conference, the court shall render a pre-trial order which, when entered, shall control the course of the trial and may not be amended except by order of the court to prevent manifest injustice.

E. Memoranda of Law. Memoranda of law, addressing any unusual questions of law, shall be filed and served no later than seven (7) days prior to trial.

F. Proposed Jury Instructions. Proposed preliminary and final jury instructions shall be filed and served no later than seven (7) days prior to trial. Instructions covering issues arising at trial which could not reasonably be anticipated may be submitted during the trial. Each instruction shall be accompanied by citations of authority.

G. Sanctions. A failure of the parties or their attorneys to be prepared for the initial status conference, for the pre-trial conference, or to otherwise comply with this Rule, shall subject them to sanctions under Trial Rule 16(K).

## Rule 10. Trial Settings

Except for those set by the pre-trial order, all cases shall be set for trial by the court upon motion preceded by good faith effort of the parties to agree to the date thereof.

## Rule 11. Briefs

Briefs, other than those addressed in Rules 4 and 9 hereof, shall be filed no later than two (2) calendar days preceding the hearing or trial to which directed.

## Rule 12. Exhibits

All exhibits offered or admitted into evidence shall be placed in the custody of the Court Reporter unless otherwise ordered. No earlier than three (3) years after the date of trial, they may be obtained by the parties offering them. A detailed receipt shall be left with the Court Reporter. No earlier than forty-two (42) months after the date of trial, the Court Reporter shall, upon order of the court, dispose of those exhibits unclaimed.

## Rule 13. Courts

Whenever the presiding judge in any Room of the Civil Division of the Superior Court is absent or otherwise unavailable, and there is no judge pro tempore or temporary judge sitting in his stead, cases docketed in that Room may be submitted to any other judge of the Civil Division then available.

#### Rule 14. En Banc Court

In the event the Civil Division is called upon to sit en banc, the following rules shall apply:

- A. The judge of the court in which the action is filed shall serve as the presiding judge for all proceedings.
- B. A majority of the Civil Division judges shall constitute a quorum sufficient to conduct en banc proceedings.
- C. Oral arguments will not be heard on any matter without court approval.
- D. In the event of an emergency, the presiding judge, or if the presiding judge is unavailable, any of the remaining judges, may hear and determine the matter until en banc action may be taken.

#### Rule 15. Appointment of Special Judge

- A. If a motion for change of Judge is granted in a case or an order of disqualification is entered in a case, and a special judge is not appointed and qualified as provided in Trial Rule 79(D), (E) or (F), a special judge shall be appointed from the attached lists of eligible persons on a rotating basis.
- B. Each eligible person shall have the option to be removed from or remain on the attached lists or, if omitted, the option to be added to said lists.
- C. This rule shall have no application to the selection of a special judge in a Post Conviction Relief petition. The rules of Criminal Procedure and the Local Rules of the Lake Superior Court, Criminal Division, shall apply in said instance.
- D. The lists of eligible persons shall be maintained in the office of the Lake Superior Court Civil Administrator (Administrator). When it becomes necessary to select a special judge from said lists, the following procedure shall be followed:
  - 1. The judge who submitted the panel from which the special judge did not accept the appointment shall immediately contact the Administrator for the name of the next available person. The Administrator shall provide a name from the attached lists on a rotating basis beginning with the first name on the list for the particular case category.



2. The selected person appointed to serve under this local rule must accept jurisdiction unless disqualified under circumstances set out in the Rules of Trial Procedure 79(H). The order of appointment by the regular judge shall constitute acceptance. An oath or additional evidence of acceptance is not required.

CASE DESIGNATIONS	CASE JUDGES	CASE DESIGNATIONS	CASE JUDGES
CP	Judge Arredondo Judge Dywan Judge Davis Judge Danikolas Judge Svetanoff Judge Richards Judge Pera Judge Schneider Mag. Pete Mag. Kapitan	MH	Judge Arredondo Judge Dywan Judge Davis Judge Svetanoff Judge Kouros Judge Bonaventura Judge Pera Judge Cantrell Mag. Pete Mag. Kapitan
CT	Judge Arredondo Judge Dywan Judge Davis Judge Svetanoff Judge Richards Judge Pera Judge Schneider Mag. Page Mag. Kapitan	PO	Judge Dywan Judge Davis Judge Bonaventura Judge Pera Judge Schneider Judge Cantrell Mag. Pete Mag. Sakelaris Mag. Kapitan
SC	Judge Dywan Judge Davis Judge Schiralli Judge Bonaventura Judge Pera Judge Schneider Judge Cantrell Judge Villalpando Mag. Kapitan	EU/GU/TR	Judge Davis Judge Richards Judge Bonaventura Mag. Peller Mag. Commons Mag. J. Miller
MI	Judge Dywan Judge Davis Judge Richards Judge Pera Mag. Pete	JP	Judge Pera Judge Cantrell Mag. Pete Mag. Peller Mag. Commons Mag. J. Miller
DR	Judge Davis Judge Danikolas Judge Svetanoff	JD/JS/JM	Judge Maroc Judge Kouros Judge Cantrell Mag. Peller Mag. Commons

	Judge Bonaventura	Mag. J. Miller
	Judge Pera	
	Judge Schneider	
	Judge Pete	
	Mag. Sakelaris	
	Mag. Peller	
	Mag. Commons	
	Mag. J. Miller	
AD/AH	Judge Davis	
	Judge Danikolas	
	Judge Svetanoff	
	Judge Bonaventura	
	Judge Schneider	
	Mag. Pete	
	Mag. Sakelaris	
	Mag. Peller	
	Mag. Commons	
	Mag. J. Miller	
JC/JT	Mag. Pete	
	Mag. Peller	
	Mag. Commons	
	Mag. J. Miller	

## APPENDIX A. ENTRY FORM

CCS ENTRY FORM	*
LAKE SUPERIOR COURT	*
ROOM NUMBER THREE	*
	*
	*
CAUSE NO:	*
	*
CAPTION:	*
	*
	****

The activity of the Court should be summarized as follows on the Chronological Case Summary (CCS):

ATTORNEY FOR:  
PETITIONER

ATTORNEY FOR:  
RESPONDENT

\* \* \* \* \*

(TO BE DESIGNATED BY THE COURT)

THIS ENTRY FORM SHALL BE:

{ } PLACED IN CASE FILE

{ } DISCARD AFTER ENTRY ON THE CCS

{ } MAILED TO ALL COUNSEL BY: \_\_\_\_ COUNSEL \_\_\_\_ CLERK \_\_\_\_ COURT

{ } THERE IS NO ATTACHED ORDER; OR THE ATTACHED ORDER SHALL BE  
PLACED IN THE RJO: { } YES { } NO

DATE: \_\_\_\_\_ APPROVED: \_\_\_\_\_

## **ALTERNATIVE DISPUTE RESOLUTION RULES**

### **Rule A. Applications and list of mediators**

Any individual who fulfills the qualifications for mediator established by the Supreme Court of Indiana may submit an application to the circuit or any superior court to be placed upon the list of mediators. The application shall include the following information:

1. mediator's name, address and telephone number;
2. county of residence;
3. information about co-mediator if applicable;
4. type of cases which the mediator is competent to mediate;
5. any known limitations on referrals, such as disqualification because of marital relationship or employment, etc.;
6. statement of mediation training;
7. statement of professional background, including attorney number and date of admission to bar, and/or educational requirements for domestic mediation;
8. statement of use of effective conflicts-checking system;
9. such other information on background and mediation training relevant to the court's review of the application.

A sample form is provided as Appendix A.

The court shall review each application and determine the eligibility of the individual to be included on the list of mediators approved by the court.

The court administrator shall maintain a comprehensive list of all court- approved mediators for the county. A copy of the list of mediators shall be available to the public for inspection in the Office of the Clerk of Lake County.

The court administrator shall also maintain a comprehensive list of lawyers engaged in the practice of law in the county who are willing to serve as arbitrators. A copy of the list of arbitrators shall likewise be available to the public for inspection in the Office of the Clerk of Lake County.

#### Rule B. Civil cases

1. Definition. For the purposes of this rule, "alternative dispute resolution" and "ADR" shall mean mediation and/or mini-hearings. This rule does not affect the parties' rights to agree to arbitration as provided by the ADR Rules of the Supreme Court of Indiana.
2. Case Selection and Objections. The court may order the parties to mediation or mini-hearing upon the occurrence of any of the following:

(a) Any party's written request for mediation or mini-hearing any time after the expiration of the fifteen (15) day period allowed for peremptory change of venue;

(b) At any time following the filing of the claim for relief if all of the parties file a written stipulation therefor; or

(c) More than ninety (90) days have elapsed since the initiation of the claim and the case has not been scheduled for a pretrial conference.

In determining whether a case is appropriate for a judicial referral to ADR, the court may consider such factors as:

(i) whether the case has been pending more than 180 days;

(ii) whether a pretrial conference has been requested;

(iii) whether the case is eligible for dismissal pursuant to TR 41(E);

(iv) whether the case is set for trial.

Nothing in this rule shall be interpreted to constrain or otherwise limit the court from referring a case to ADR at such other time as the court deems appropriate.

Any party may object to an order for mediation or mini-hearing by filing a written objection specifying the grounds for the objection within fifteen (15) days of the date of the order referring the case to mediation or mini-hearing, as provided in ADR Rule 2.2. Any response to the objection must be filed within ten (10) days of the service of the objection.

3. Completion of Mediation. The mediator and the parties shall make a good faith effort to complete the mediation process within ninety (90) days from the date of the order to engage in ADR, unless specifically ordered otherwise. In the event mediation is not complete within that time, the mediator shall file a report with the court as to the current status of the mediation and the projected date of completion of the mediation.

If the mediation is complete, the mediator shall file the agreement and report as required by ADR Rule 2.7(E) within 15 days of completion of the mediation. However, if the parties agree, a party may file the agreement in place of the mediator. If a party is to file the agreement, that party shall be identified in the mediator's report.

4. Payment of the Mediator's Fees. Unless otherwise specifically set forth in the order referring the case to mediation, or unless otherwise agreed by the parties, the mediator's fees shall be paid in the following proportions:

one-third ( 1/3 ) by the plaintiff or plaintiffs;

one-third ( 1/3 ) by the defendant or defendants;

one-third ( 1/3 ) by the intervenor or third party.

In the case of multiple plaintiffs, defendants or intervenors, the mediator's fee shall be apportioned equally among the number of plaintiffs, defendants or intervenors, unless they shall agree otherwise.

5. Written Agreements. All agreements which resolve issues shall be reduced to writing and signed by all parties and their counsel, and shall be submitted to the court with the mediator's report, or as soon thereafter as is practicable.

6. Parties to Attend. In all non-family cases, the attorney(s) who will try the case and the parties shall attend the mediation conference. A corporate party shall send a corporate representative with full authority to settle the case. If insurance is involved in the matter, the insurance carrier shall send a company representative who has full and absolute authority to resolve the matter for an amount which is the lesser of the policy limits or the most recent demand of the adverse party. An insurance representative may be available by phone during the mediation conference in fulfillment of this requirement.

#### Rule C. Domestic relations cases

1. Case Selection. In applying the Alternative Dispute Resolution Rules, mediation is the appropriate method of court-ordered dispute resolution in domestic relations cases.

2. Time for Filing Motions and Stipulations. Either party may file a motion for referral to mediation at any time during the pendency of the case, from the time of filing and thereafter until the final hearing. The parties may file a joint application for referral to mediation at any time during the pendency of the case.

In determining whether a case is appropriate for judicial referral to ADR, the court may consider such factors as:

- (a) whether the time for exchange of financial disclosure information has passed;
- (b) when time for a contested hearing has been requested on the court's calendar;
- (c) whether the case involves post-decree issues.

Nothing in this rule shall be interpreted to constrain or otherwise limit the court from referring a case to ADR at such other time as the court deems appropriate.

3. Completion of Mediation. The mediator and the parties shall make a good faith effort to complete the mediation process within sixty (60) days from the date of the order to engage in ADR. In the event that mediation is not complete within that time, the mediator shall file a report with the court as to the current status of the mediation and the projected date of

completion of the mediation. If the mediation is complete, the mediator shall file the agreement and report as required by ADR Rule 2.7(E). However, if the parties so agree, a party may file the agreement separately, and that party shall be identified in the mediator's report.

The mediator's report shall also include the parties' agreement as to a date certain for filing their agreement.

4. Payment of Mediator's Fees. Unless otherwise specifically set forth in the order referring the case to mediation, or unless otherwise agreed by the parties prior to the mediation conference, the mediator's fees shall be paid in the following proportions:

one-half ( 1/2 ) by the petitioner;

one-half ( 1/2 ) by the respondent.

5. Parties to Attend. In domestic relations cases, the attendance of the parties' counsel is not required at every session. If counsel choose not to attend, they shall be given the opportunity to review and discuss any settlement proposal made at a mediation conference.

#### APPENDIX A. MEDIATOR'S APPLICATION FOR CIVIL/DOMESTIC CASES

##### MEDIATOR'S APPLICATION FOR CIVIL/DOMESTIC CASES

(strike one if necessary)

I, \_\_\_\_\_, hereby apply to be placed on the court's listing of mediators, and include the following information pursuant to ADR Rule 2.5:

##### 1. NAME AND ADDRESS.

Name:

\_\_\_\_\_

Business address: \_\_\_\_\_

---

Phone: \_\_\_\_\_  
Resident of \_\_\_\_\_ County

2. CO-MEDIATOR. (check one)

This is not a joint application \_\_\_\_\_  
This is a joint application \_\_\_\_\_  
My co-mediator has also filed an application with the court, and his/her  
name is \_\_\_\_\_.

3. TYPES OF CASES. In accordance with ADR Rule 2.3, I am applying to mediate the following types of cases:

CIVIL:

\_\_\_\_ CONTRACT                      \_\_\_\_ PROBATE  
\_\_\_\_ TORT                              \_\_\_\_ PROPERTY  
\_\_\_\_ PROBATE                      \_\_\_\_ OTHER (list)  
\_\_\_\_ all civil cases

DOMESTIC RELATIONS:

\_\_\_\_ CHILD CUSTODY ONLY                      \_\_\_\_ CHILD SUPPORT ONLY  
\_\_\_\_ PROPERTY DIVISION                      \_\_\_\_ OTHER (list)  
\_\_\_\_ COMPLETE DIVORCE--NO CHILDREN  
\_\_\_\_ COMPLETE DIVORCE WITH CHILDREN

4. LIMITATION ON REFERRALS. I am unable to accept referrals pursuant to ADR Rule 2.5(A)(1) when one of the following attorneys is an attorney of record in the case, because I am employed by them OR related to them: \_\_\_\_\_.



5. MEDIATION TRAINING. I have completed the following total number of hours of mediation training:

(a) CORE MEDIATION TRAINING. I have attended a forty (40) hour minimum mediation training course certified as appropriate by the Indiana Commission for Continuing Legal Education.

Number	of	hours:	_____	Dates	of	training:
						Trainers:
						Title of
seminar: _____						Location of
seminar: _____						Sponsor:
_____						

Such training was: pre-certified by the commission; or certified after the fact by the commission.

(Attach copy of certificate)

#### 6. PROFESSIONAL BACKGROUND:

CIVIL: I am an attorney in good standing in Indiana. I was admitted to the Indiana bar on \_\_\_\_\_, and my attorney number is \_\_\_\_\_.

DOMESTIC RELATIONS: I am an attorney in good standing in Indiana. I was admitted to the Indiana bar on \_\_\_\_\_, and my attorney number is \_\_\_\_\_.

AND/OR

I have a bachelor's degree from the following accredited institution of higher learning:

\_\_\_\_\_ degree  
earned: \_\_\_\_\_  
Date conferred: \_\_\_\_\_  
Major: \_\_\_\_\_  
Other graduate degrees: \_\_\_\_\_

7. CONFLICT-CHECKING SYSTEM: I utilize an effective system to identify potential conflicts of interest, as required by ADR Rule 2.8.

8. DOMESTIC MEDIATOR KNOWLEDGE REQUIREMENTS. I have knowledge (or my mediation team has combined knowledge) of all of the following to the extent practicable, as required by ADR Rule 2.5(C)(2). I personally have knowledge of the following:

\_\_\_\_\_ Indiana judicial system \_\_\_\_\_ procedures used in domestic relations cases  
\_\_\_\_\_ community resources for client referral \_\_\_\_\_ stages of child development  
\_\_\_\_\_ clinical issues relating to children \_\_\_\_\_ the effects of divorce on children  
\_\_\_\_\_ family systems theory

9. FEES. My fee or fee range for civil matters is \_\_\_\_\_  
\_\_\_\_\_.

My fee or fee range for domestic matters is \_\_\_\_\_  
\_\_\_\_\_.

\_\_\_\_\_ signature

\_\_\_\_\_ date.

(VERIFICATION)

## **PROBATE AND ESTATES-GENERAL RULES**

### **RULE 1**

All probate rules and regulations promulgated by the Veterans Administration are hereby adopted as probate rules of the Court.

### **RULE 2**

Probate matters must be transacted with the Probate Commissioner. Only emergency matters may be submitted to the presiding Judge. Telephone calls or visits to the Probate Commissioner's private office should be kept at a minimum.

### **RULE 3**

Attorneys must obtain sheets and jackets from the Probate Clerk prior to submitting any matter to the Probate Commissioner.

### **RULE 4**

All petitions, of any nature or kind, in all matters, must be executed and verified by the Personal Representative, the Guardian, the Trustee, or the Interested Party (Petitioner), and not by the Attorney.

### **RULE 5**

All Attorneys are required to prepare CCS Entry Forms showing each pleading filed, and setting forth all necessary matters for all proceedings. The Standard entries are to be used when applicable.

### **RULE 6**

All Attorneys are required to prepare orders per form for all proceedings, except where expressly indicated to the contrary by the respective Probate Commissioner.

## RULE 7

Where matters are filed by mail, or left with the Court for filing, a self- addressed stamped envelope must be included for return of documents to the Attorney.

## RULE 8

Routing matters, such as Inventories, Inheritance Tax Schedules and Final Report, may be filed with the Probate Clerk or Probate Secretary for transmittal to the Probate Commissioner.

## RULE 9

Attorneys desiring to have the Court Reporter present for a hearing must make a written request for same ten (10) days in advance of the hearing. Hearings involving the Court Reporter shall be set subject to his or her availability.

## RULE 10

Any contested matters scheduled for hearing on a probate day shall take precedence over unscheduled business. Attorneys are encouraged to call the Court to find out when contested matters are scheduled.

## RULE 11

Whenever notice by publication and/or written notice by U.S. Mail is required to be given, the Attorney shall prepare such notice and shall ensure that such notice is properly published and/or served by certified mail, return receipt requested, when required. In all respects it shall comply with all statutory requirements. It shall be the Attorney's responsibility to ascertain and provide adequate proof that notice was properly served prior to bringing a matter to the attention of the Probate Commissioner.

## RULE 12

Copies of petitions and accountings must be sent with all notices, where the hearing involved arises from the matters contained in the petition and/or accounting.

## RULE 13

Unless waived, all other notices shall be given in strict conformity with statutory requirements and proof of such service in proper form must be presented to the Court at the time of the hearing.

#### RULE 14

An inventory must be filed in all Estate and Guardianship matters as follows: Estates, within 60 days; Guardianship, within 90 days for permanent guardians, or within 30 days for temporary guardians. All times relate to the date of appointment.

#### RULE 15

In all instances in which real estate is to be sold, a current written appraisal setting forth the fair market value thereof must be filed with the Court no later than at the time of the filing of the Petition seeking such sale.

#### RULE 16

Attorneys must attend the hearings on current or final accounts on the date scheduled for such hearings. The Court may, in its discretion, require the attendance of the Personal Representative, Guardian or Trustee at all such hearings.

#### RULE 17

Hearings on final reports shall be scheduled on the last probate day of each week.

#### RULE 18

In all reports made to the Court, vouchers for the expenditures claims therein must be filed therewith, or in the alternative, at the discretion of the Court, an affidavit stating that vouchers are available for all such items may accompany said report.

#### RULE 19

Receipts for all final distribution must be filed either in the final report, or a supplemental report, before discharge will be given by the Court.

#### RULE 20

All Accountings must follow the prescribed statutory format. Informal, hand- written, or transactional accountings will not be accepted.

#### RULE 21

The Social Security number of the Personal Representative or Guardian must be provided to the Court at the time of opening an Estate or Guardianship.

#### RULE 22

The name and address of the Insurance Agency providing the corporate surety must be typed on all corporate bonds filed in any Estate or Guardianship.

#### RULE 23

In all contested hearings, Indiana Rules of Procedure, Trial Rule 16, Pre- Trial Procedure, as modified by Order of the Court, shall be strictly enforced.

#### RULE 24

Any petition for the allowance of fees for the Attorney and/or the Personal Representative or Guardian shall specifically set forth all services performed in detail as well as the amount of the fee requested. At the time the Petition is considered by the Court, the Attorney must be present. No fee request will be considered as a part of the Final Account in any Estate or Guardianship proceedings. A separate petition must be filed requesting such fee determination. No fee, in any proceeding, whether in whole or in part, shall be paid without the prior approval of the Court.

#### RULE 25

All Deeds submitted to the Court for approval in either Estate or Guardianship proceedings must be signed by the Fiduciary and the signature notarized prior to its submission. All such Deeds are to be submitted with the Report of Sale of Real Estate or at the time of hearing on the Final Account. Copies of such Deeds must be filed for the Court records.

#### RULE 26

In all settlement proceedings, whether wrongful death, minor's settlement, or incapacitated person's settlement, the Personal Representative, one Custodial Parent, or the Guardian must be

present at the time the settlement is presented to the Court for approval. The Court retains the right to require the presence of the minor or incapacitated person at such times.

## **RULE 27**

For good cause shown, the Court may waive any local procedural rule.

## **ESTATE RULES**

### **RULE 1**

When required by law, all Wills must be admitted to Probate.

### **RULE 2**

Bond procedures for Estates:

- a. If the decedent's Will provides for no bond, the Court may honor the request;
- b. If all heirs request no bond or a minimal bond, the Court may honor such request;
- c. In all instances, upon petition by an interested person, the Court may require a bond to protect creditors, heirs, legatees, or devisees;
- d. In all other situations, the Court will determine and set the amount of the bond and in no event shall it be less than that required to protect creditors and taxing authorities;
- e. Personal surety must meet the requirements of I.C. 29-1-11-5;
- f. No Attorney will be accepted as surety on any bond required to be filed in Court.

### **RULE 3**

Five (5) months and fifteen (15) days after the date of the first published notice to creditors, the Personal Representative, or his Attorney, shall examine the Claim Docket and shall allow or disallow each claim filed against the Estate.

### **RULE 4**

If an Estate cannot be closed, the Personal Representative must report the condition of the Estate to the Court one year after the date of his appointment, and thereafter every year until the Estate is fully administered.

#### RULE 5

Inheritance Tax Schedules must be filed in triplicate, with copies of the Decedent's Will attached, if there is one.

#### RULE 6

Proposed Orders Determining Inheritance Tax Due in the format prescribed by the Indiana Department of Revenue shall be prepared by the Attorney and filed in quadruplicate at the time of determination of the Tax.

#### RULE 7

Unless notice is waived on the Inheritance Tax Schedule, the Personal Representative and/or his Attorney, must attend the hearing to determine inheritance tax.

#### RULE 8

Although not required by law, the Federal Estate Tax Closing letter and/or the countersigned receipt, or a photocopy thereof, showing payment of the Indiana Inheritance Tax liability in the Estate, executed and sealed by the Indiana Department of the State Revenue, should be attached to the Final Report at the time of filing.

#### RULE 9

No Attorney or Personal Representative fees will be authorized for payment until the Estate is substantially settled.

#### RULE 10

Proof of publication of all notices required to be published shall be filed with the Court by the Attorney for the Estate. It is the Attorney's responsibility to ensure that publication was timely made, and proof thereof is properly filed with the Court.



#### RULE 11

It shall be the responsibility of the Attorney and/or the Personal Representative to provide notice of the opening of the Estate to any reasonably ascertainable creditor.

#### RULE 12

No Attorney or Personal Representative fees will be determined and authorized for payment by the Court in any Unsupervised Administration of a Decedent's Estate.

#### RULE 13

Any Attorney or Personal Representative fees determined to be due by reason of jointly held assets shall be assessed against the owner of the jointly held asset.

#### RULE 14

The Court shall have no involvement, other than for opening, closing and determining Indiana Inheritance Tax due in an Unsupervised Administration of a Decedent's Estate. If the jurisdiction of the Court is invoked for any other matter, the administration shall become a supervised administration from there on for all remaining matters.

#### RULE 15

When a verified closing statement has been filed, an affidavit executed by the Personal Representative stating that no proceedings are pending shall be filed with the Court upon the expiration of the three month statutory waiting period.

#### RULE 16

If the Personal Representative has filed a claim in the Estate, the claim may be allowed by the Court if all interested parties have consented thereto. In the event the consents have not been obtained, a hearing on the claim will be held as prescribed by statute.

#### RULE 17

In the event a petition is filed requesting that an Estate be closed as insolvent, a hearing shall be held thereon. Notice shall be given to the Lake County Assessor, all interested parties, all claimants and all reasonably ascertainable creditors.

## RULE 18

Where contracts for legal services have been entered into prior or subsequent to the opening of an Estate without prior Court approval, the Court reserves the right to approve or disapprove the fee contracts consistent with fee guidelines and/or Court policy.

## FORM 1

Petition filed for Letters of Administration for Estate of \_\_\_\_\_, Deceased. Petition examined. Court now finds \_\_\_\_\_, Deceased, died on \_\_\_\_\_, a resident of Lake County, Indiana, leaving property therein. Court appoints \_\_\_\_\_ as Personal Representative of the Estate. Personal Representative files Oath and Bond, examined and approved. Letters ordered issued.

## FORM 2

Instrument produced for Probate purporting to be the Last Will of \_\_\_\_\_, Deceased. Petition filed for Probate of Will and Issuance of Letters. Instrument examined. Evidence of \_\_\_\_\_, attesting Witness, submitted and reduced to writing by filing Proof of Will. Court now finds \_\_\_\_\_, Deceased, died on \_\_\_\_\_, a resident of Lake County, Indiana, leaving property therein. Will admitted to Probate. Court appoints \_\_\_\_\_ as Personal Representative. Personal Representative files Oath and Bond, examined and approved. Letters ordered issued.

## FORM 3

Instrument produced for Probate purporting to be the Last Will of \_\_\_\_\_, Deceased. Petition filed for Probate of Will. Instrument examined. Evidence of \_\_\_\_\_, attesting Witness, submitted and reduced to writing by filing Proof of Will. Court now finds \_\_\_\_\_, Deceased, died on \_\_\_\_\_, a resident of Lake County, Indiana, leaving property therein. Will admitted to Probate.

## FORM 4

Instrument produced for Probate purporting to be the Last Will of \_\_\_\_\_, Deceased. Petition filed for Probate of Will. Instrument examined. Court finds that the Last Will of the Decedent was a self-proved Will executed in all respects according to law with proper acknowledgement and verification thereof. Court now finds that \_\_\_\_\_, Deceased, died on \_\_\_\_\_, a resident of Lake County, Indiana, leaving property therein. Will admitted to Probate.

#### FORM 5

Petition filed for Appointment of Personal Representative for the sole purpose of collecting damages for wrongful death. The Court being advised, now appoints \_\_\_\_\_ as Personal Representative of the Estate of \_\_\_\_\_, who died on \_\_\_\_\_, a resident of Lake County, Indiana, for the sole purpose of bringing action for damages for wrongful death. Personal Representative files Oath and Bond, examined and approved. Letters ordered issued.

#### FORM 6

Personal Representative files Oath and Bond. Examined and approved. Letters ordered issued.

#### FORM 7

Inventory submitted showing personal property with a value of \$\_\_\_\_\_, and real property with a value of \$\_\_\_\_\_. Examined and approved.

#### FORM 8

Personal Representative files Petition to Sell Real Estate. Court sets hearing on Petition for \_\_\_\_\_, 199\_\_, at \_\_\_\_\_ a.m./p.m.

#### FORM 9

Due Notice, as provided by law, has been given. Evidence submitted. Court orders real estate sold.

#### FORM 10

Personal Representative files Petition to Sell Real Estate. All necessary waivers and consents filed. Evidence submitted. Court orders real estate sold.

#### FORM 11

Personal Representative files Report of Sale of Real Estate and Deed for approval. Evidence submitted. Court now approves Report of Sale and Personal Representative's Deed.

## FORM 12

Schedule of All Property for Inheritance Tax Purposes filed. Referred for appraisalment.

## FORM 13

County Assessor files Report of Appraisers. State Tax Board and County Treasurer show Waiver of Notice. Submitted, examined and approved. Court now finds tax due in the amount of \$\_\_\_\_\_.

## FORM 14

Personal Representative files Petition for Allowance of Personal Representative and Attorney Fees. Evidence submitted. Personal Representative fees allowed in the amount of \$\_\_\_\_\_, and Attorney's fees allowed in the amount of \$\_\_\_\_\_.

## FORM 15

Personal Representative files Petition to Allow and Settle Final Account. Court sets hearing on Petition for \_\_\_\_\_, 199\_\_, at \_\_\_\_\_ a.m./ p.m.

## FORM 16

Due Notice, as provided by law, has been given. The Final Account is hereby in all things approved, settled and confirmed. The distribution of assets, as set forth in the accounting has been made and is hereby approved. The Personal Representative is hereby released and discharged from any further liability or responsibility. Surety released and discharged. Estate ordered closed.

## FORM 17

Due Notice, as provided by law, has been given. The Final Account is hereby in all things approved, settled and confirmed. The Personal Representative is hereby directed to make distribution as provided for in the Final Account and file Supplemental Report showing the distribution to have been made.

## FORM 18

Personal Representative files Supplemental Report showing distribution has been made as provided in the Final Account. Petition examined and approved. The Court now orders Personal Representative discharged. Surety released and Estate ordered closed.

## FORM 19

Personal Representative files Verified Closing Statement. Court sets \_\_\_\_\_, 199\_\_, at \_\_\_\_\_ a.m./p.m., as the last date for filing objections thereto.

## FORM 20

This matter comes for hearing on the Verified Closing Statement previously filed herein, and there having been no objections filed thereto, the Court now orders the Estate closed.

## FORM 21

Comes now \_\_\_\_\_ and files Petition for Transfer of Assets by Affidavit. Court being advised, now finds that the requirements of I.C. 29-1-8-1 have been satisfied. Court now orders transfer of assets by Affidavit.

## FORM 22

Comes now \_\_\_\_\_, Attorney General of Indiana, by \_\_\_\_\_, Deputy Attorney General, and files appearance on behalf of Indiana Department of Revenue, Inheritance Tax Division, and also files Petition for Rehearing, Reappraisement and Redetermination of Inheritance and Transfer Tax. Court now sets hearing on the Petition for \_\_\_\_\_, 199\_\_, at \_\_\_\_\_ a.m./p.m.

## **GUARDIANSHIP RULES**

### **RULE 1**

In all guardianship matters pertaining to declaring an adult incapacitated for any reason, at a minimum, an Affidavit in a form acceptable to the Court, executed by the Doctor treating the alleged incapacitated person, must be submitted at the time the petition is filed, or on the hearing

date. No determination will be made without supporting medical testimony. (SEE ATTACHED FORM)

## RULE 2

In all instances, a bond shall be required to the full extent of the value of the personal property assets and one year's estimated income from all assets in the Guardianship. No exceptions will be permitted.

## RULE 3

Where a restricted account has been created, an acknowledgment of or acquiescence to the restriction by the financial institution involved must be filed by the Guardian's Attorney within ten (10) days of the Court Order creating such an account.

## RULE 4

Current reports filed by the Guardian must show the present whereabouts of the protected person and his/her general welfare.

## RULE 5

All Guardian's Accountings must contain a certification by an officer of a financial institution or the holding institution that the assets remaining in the guardianship, other than real estate, have been exhibited to him, and that they correspond with what is shown in the recapitulation section of the accounting. (See attached forms.)

## RULE 6

Where contracts for legal services have been entered into prior or subsequent to the opening of a Guardianship without prior Court approval, or when a settlement has been reached and no Guardianship is required, the Court reserves the right to approve or disapprove the fee contracts consistent with fee guidelines and/or Court policy.

## RULE 7

All Social Security benefits received on behalf of a protected person must be included and accounted for in the Guardian's accountings.

## RULE 8

Neither the Guardian or the Attorney shall receive any fees until the amount thereof has been approved by the Court.

## RULE 9

An order per form must be submitted at the time of the appointment of a Guardian, detailing the duties, responsibilities and powers of the Guardian. Any limitation on the duties, responsibilities and powers of the Guardian must be detailed on a separate schedule which is to be added to the Letters of Guardianship.

## RULE 10

In the event an individual is appointed Guardian to handle the financial affairs of a protected person, the Guardian shall file his/her first current account within thirty (30) days after the first anniversary of the date on which the letters were issued.

## RULE 11

A Guardian ad litem shall be appointed in all instances in which the appointment of a Guardian is sought, unless waived by law or by the person for whom the appointment of a Guardian is sought, or the alleged incapacitated person is represented by Counsel.

## ENTRY 1

\_\_\_\_\_ files Petition for Appointment of Guardian of \_\_\_\_\_, alleged incapacitated person. Court sets hearing on \_\_\_\_\_, 199\_\_, at \_\_\_\_\_ a.m./p.m. Court finds that (no) necessity exists for appointment of Guardian ad litem. \_\_\_\_\_ appointed Guardian ad litem and is ordered to qualify.

## ENTRY 2

Due Notice, as provided by law, has been given. Evidence submitted. Court finds \_\_\_\_\_ to be incapacitated as defined by law. Court appoints \_\_\_\_\_ Guardian of \_\_\_\_\_, the Protected Person with the powers and responsibilities set forth in its Order.

### ENTRY 3

\_\_\_\_\_ files Petition for Appointment of Guardian of \_\_\_\_\_, alleged incapacitated person. All necessary consents and/or waivers filed and approved. Evidence submitted. Court finds no necessity exists for appointment of Guardian ad litem and further that \_\_\_\_\_ is incapacitated as defined by law. Court appoints \_\_\_\_\_ Guardian of the Protected Person, with the powers and responsibilities set forth in its Order.

### ENTRY 4

Guardian files Oath and Bond. Examined and approved. Letters ordered issued with the powers and responsibilities set forth in its Order of Appointment.

### ENTRY 5

Proof of restrictions on withdrawal of assets having been filed, Court waives accounting and orders certification of deposit to be filed every two years in lieu thereof.

### ENTRY 6

Inventory submitted showing personal property with a value of \$\_\_\_\_\_ and real property with a value of \$\_\_\_\_\_. Examined and approved.

### ENTRY 7

Guardian files Petition to Sell Real Estate. Evidence submitted. Court orders real estate sold.

### ENTRY 8

Guardian files Report of Sale of Real Estate and Deed for approval. Evidence submitted. Court now approves Report of Sale and Guardian's Deed.

### ENTRY 9

Guardian files Current Accounting for the period from \_\_\_\_\_ to \_\_\_\_\_. Evidence submitted. Court now approves Current Accounting.



#### ENTRY 10

Guardian files Petition for Allowance of Attorney Fees. Evidence submitted. Attorney fees allowed in the amount of \$\_\_\_\_\_.

#### ENTRY 11

Guardian files Petition to allow and settle Final Account. The Final Account is approved, settled and confirmed. The distribution of assets, as set forth in the Accounting has been made and is hereby approved. The Guardian is hereby released and discharged from any further liability or responsibility. Surety released and discharged. Guardianship ordered closed.

#### ENTRY 12

Guardian files Petition to allow and settle Final Account. The Final Account is approved, settled and confirmed. The Guardian is hereby directed to make distribution as provided for in the Final Account and file Supplemental Report showing the distribution to have been made.

#### ENTRY 13

Guardian files Supplemental Report showing distribution has been made as provided in the Final Account. Petition examined and approved. The Court now orders Guardian discharged. Surety released and Guardianship ordered closed.

#### FORM A. [FN1] ACCOUNT VERIFICATION

##### ACCOUNT VERIFICATION

TO: \_\_\_\_\_

FROM: \_\_\_\_\_  
Guardian's Name

RE: Guardianship of \_\_\_\_\_

In order to comply with the rules of the Probate Court, I am required to file a Certification of Account Balances. Please certify the balances and names on the accounts I have listed below, as of \_\_\_\_\_, 199\_\_.

Dated: \_\_\_\_\_

Guardian: \_\_\_\_\_  
Guardian's Name

FOR BANK USE ONLY:

I certify that on \_\_\_\_\_, 199\_\_, the last day of the period covered by this accounting, there was on deposit in this institution to the credit of the Guardian, the following balance:

NAME ON ACCOUNT	ACCOUNT NUMBER	BALANCE	DATE
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Name and Address of Institution:	Signature of Certifying Officer:
_____	_____
Signature	
_____	_____
Title	
_____	_____
Date	

CERTIFICATE OF INVESTMENT

KIND OF SECURITY	INTEREST RATE	DATE OF ACQUISITION	FACE VALUE	GUARDIANSHIP VALUE
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:	:	:	:	:
:	:	:	:	:
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:	:	:	:	:
:	:	:	:	:
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I certify that the securities listed herein were exhibited to me by the Guardian,  
\_\_\_\_\_, as being the property of the Protected Person and in the custody of the  
Guardian.

\_\_\_\_\_  
Date                      Signature and Title of Certifying Officer

\_\_\_\_\_  
Name and Address of Institution

## PHYSICIAN'S REPORT

\_\_\_\_\_, a physician holding an unlimited license to practice medicine in the State of Indiana, submits the following report on \_\_\_\_\_, "Patient", based upon examination of Patient.

1. Set forth the dates of all examinations of the Patient within the last one (1) year from the date hereof.

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2. In your opinion, based upon your examination and observation of the Patient, is the Patient incapacitated? If so, describe the nature and type of incapacity.

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3. In your opinion, based upon your examination and observation of the Patient, how long has the Patient been incapacitated?

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4. Describe the Patient's mental and physical condition; and, if appropriate, describe the Patient's educational condition, adaptive behavior and social skills.

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5. In your opinion, is the Patient totally or only partially incapable of making personal and financial decisions? And, if the latter, state the kinds of decisions which the Patient can and cannot make. Include the reason for this opinion.

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6. In your opinion, what is the most appropriate living arrangement for the Patient? And, if applicable, describe the most appropriate treatment or rehabilitation plan. Include the reasons for your opinion.

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7. Can the Patient appear in Court without injury to his/her health? \_\_\_\_\_ Yes  
\_\_\_\_\_ No

If the answer is no, explain the medical reasons for your answer.

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8. Is the Patient capable of consenting to the appointment of a Guardian? \_\_\_\_\_ Yes  
\_\_\_\_\_ No

9. Is the nature of the Patient's incapacity such that it prevents the Patient from making a knowing and voluntary Waiver of Notice? \_\_\_\_\_ Yes \_\_\_\_\_ No

10. In your opinion, is a Guardian needed to care for the Patient? \_\_\_\_\_ Yes \_\_\_\_\_ No.

If a Guardian is needed, is one needed for personal or financial needs, or both?

\_\_\_\_\_ Personal \_\_\_\_\_ Financial \_\_\_\_\_ Both

I affirm, under the penalties of perjury, the above and foregoing is true and correct to the best of my knowledge and belief.

Signed: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Tele: \_\_\_\_\_

Dated: \_\_\_\_\_

If the description of the Patient's mental, physical and educational condition, adaptive behavior or social skills is based on evaluations by other professionals, please provide the names and addresses of all professionals who are able to provide additional evaluations. Evaluations on which the report is based should have been performed within three (3) months of the date of the filing of the Petition.

Names and addresses of other persons who performed evaluations upon which this report is based:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Tele: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Tele: \_\_\_\_\_

## **ATTORNEY FEE GUIDELINES-PROBATE**

### **INTRODUCTION**

Although fee guidelines have been promulgated by the Court for Probate and Guardianship matters, it is important that certain criteria be called to your attention as they pertain to these guidelines.

The existence of these guidelines does not assure that all fees allowed by the Court will adhere to them. Other factors must be considered by the Attorney and his, or her, Client. These same factors will also be considered by the Court in making its determination.

The criteria to be considered include the following:

A. The time and labor required; the novelty, complexity, or difficulty of the questions involved and the skill required to perform the services properly. This shall include a determination as to how much of the Attorney's time was devoted to legal matters and how much of it was devoted to ministerial functions;

B. The nature and extent of the responsibilities assumed by the Attorney and the results obtained. Included herein are considerations of the identity of the Personal Representative and the character of the probate assets and non- probate transferred assets;

C. The sufficiency of assets properly available to pay for legal services. Inherent herein is whether the Attorney's duties are expanded by the existence of non-probate assets because of their inclusion for tax purposes, both federal and state;

D. The timeliness with which the necessary services are performed consistent with statutory requirements, the Court's Rules of Procedure and the Rules of Professional Conduct applicable thereto.



In considering all of these factors, Attorneys are urged to discuss their fee and that of the Personal Representative or Guardian at the time they are retained in all Probate and Guardianship matters.

## MAXIMUM FEE GUIDELINES AND RULES--ESTATES

### ATTORNEY

#### A. Regular Administration

##### 1. \$200,000 or less:

Basic	\$800
Gross value of estate	6%
Sale of real estate	\$600
All other services, \$125 per hour, if assets warrant [FN*]	

##### 2. Over \$200,000:

Gross estate up to \$200,000	6%
\$200,000 to \$400,000	4%
\$400,000 to \$800,000	3%
Over \$800,000	2%
Sale of real estate	\$600
Federal Estate Tax Return, basic fee to be charged, but only if the attorney drafted and signed the return as the actual preparer	\$1,500
Federal Estate Tax assets which exceed assets in Inheritance Tax Schedule	1%
All other services, \$125 per hour, if assets warrant [FN*]	

#### B. Wrongful Death Administration

If settled before trial	33
	1/3%
If trial	40%
If appealed	50%

[FN\*] Fees will be computed on an hourly basis only for extraordinary services or for services not specified above. Fee petitions requesting extraordinary fees must set forth services rendered with specificity, including the amount of time required to perform these services.

When a contract for legal services has been entered into prior or subsequent to the opening of an Estate, and when a settlement has been reached, the court reserves the right to approve or disapprove such fee contracts consistent with fee guidelines and/or court policy.

## PERSONAL REPRESENTATIVE

Non-Professional: One-third ( 1/3 ) of the attorney fee. If unusual services add at \$10 per hour if assets warrant.

Professional: Their applicable reasonable rate to be reviewed in light of all circumstances.

The total fees allowed to the Personal Representative and attorney shall not exceed ten percent (10%) of the decedent's gross estate.

## MAXIMUM FEE GUIDELINES AND RULES--GUARDIANSHIPS

### ATTORNEY

Appointment of Guardian (plus Inventory)	\$625
Biennial Current Report	\$500
Sale of Real Estate	\$600
Petition	\$250
Final Report and closing Guardianship	\$500
All other services, at \$125 per hour, if assets warrant [FN*]	

[FN\*] Fees will be computed on an hourly basis only for extraordinary services or for services not specified above. Fee petitions requesting extraordinary fees must set forth services rendered with specificity, including the amount of time required to perform these services.

When a contract for legal services has been entered into prior or subsequent to the opening of a Guardianship, or when a settlement has been reached and no Guardianship is required, Court reserves the right to approve or disapprove such fee contracts consistent with fee guidelines and/or Court policy.

### GUARDIAN

Non-Professional: The greater of five percent (5%) of the income derived (excluding original assets; sale of assets; exchange of

assets);

OR

One-half of one percent (.005%) of the gross estate per annum.

If unusual services, add at \$10.00 per hour if assets warrant.

Professional: Their applicable reasonable rate to be reviewed in light of all circumstances.

## MAXIMUM FEE GUIDELINES AND RULES--TRUSTS

Fees will not be determined by the Court in Trust matters, other than at the discretion of the Court for services actually rendered in Court proceedings.

## LAKE COUNTY RULES OF FAMILY LAW

### Rule 1. Scope and title

A. Scope. These rules shall apply in the Lake Circuit Court and the Superior Court of Lake County, Civil Division. [FN1]

B. Title. These rules may be known as the Lake County Rules of Family Law, and abbreviated as F.L.R.

### Rule 2. Financial declaration form

A. Requirement. In all relevant family law matters, including dissolutions, separations, post-decree and support proceedings, and irrespective of which court, each party shall prepare and exchange, respectively, within 45 days of the initial filing of the action or within 30 days of the filing of any post-decree matters, a Financial Declaration Form (see Appendix A). These time limits may be extended or shortened by court order for good cause shown. In those cases where there is service, but no appearance by counsel, it is the responsibility of the moving party to serve the completed Form on the other party and to notify that party of the duty to prepare and serve one as well.

B. Exceptions. The Form need not be exchanged if:

- (1) the parties agree in writing within 30 days of the initial filing to waive exchange;
- (2) the parties have executed a written agreement which settles all financial issues;

(3) the proceeding is merely at a provisional or emergency relief stage;

(4) the proceeding is one in which the service is by publication and there is no response; or

(5) the proceeding is post-decree and concerns issues without financial implications. Provided, however, when the proceeding is post-decree and concerns an arrearage, the alleged delinquent party shall complete the entire Form, while the support recipient need complete merely that portion thereof which requires specification of the basis of the arrearage calculation (with appropriate supporting documentation).

C. Use at trial. The Form is intended primarily as mandatory discovery though, subject to appropriate objection, it shall be admissible at the request of any party. Therefore, particularly in view of the presumptive nature of the Support Guidelines, direct examination on Form data shall address only unusual factors which require explanation, or corrections, and shall not, particularly with respect to issues of support, be routinely permitted. For evidentiary purposes, the pages of the Form shall be deemed severable.

D. Supporting documents. For the purpose of providing a full and complete verification of assets, liabilities and values, each party shall attach to the Form all information reasonably required and reasonably available. This shall include recent bills, wage and tax records, and bank, pension and year-end mortgage statements. "Reasonably available" means that material which may be obtained by letter accompanied with an authorization, but does not mean material that must be subpoenaed or is in the possession of the other party. Appraisals of real estate and pensions, or of personal property such as jewelry, antiques or special collections (stamps, coins or guns, for example), are not required. However, once an appraisal is obtained, it must be exchanged. Moreover, the court may direct that an appraisal be obtained, just as it may designate the appraiser.

E. Privacy--Sealing of forms. Whenever the interest of privacy so requires, the court may, upon motion, direct the admitted Forms sealed until further order. However, such requests shall not be made as a matter of course.

When ordered sealed, the Court Reporter shall place the Forms in a flat manner in an envelope of sufficient size, seal the envelope and affix a copy of the order. Forms may be withdrawn at the conclusion of the case on such terms as the court allows.

F. Financial declaration--Mandatory discovery. The exchange of Forms constitutes mandatory discovery. Thus, Indiana Rules of Procedure, Trial Rule 37 sanctions apply. Additionally, pursuant to Trial Rule 26(E)(2) and (3), the Form shall be supplemented if additional material becomes available. Further, any additional discovery, such as a motion to produce, interrogatories, or depositions of the parties, shall not commence until the Forms are exchanged nor, once exchanged, shall it seek information already obtained.

### Rule 3. Child support guidelines

A. Worksheet required. In all proceedings involving child support, each party shall file with any settlement, or enter into evidence during any trial, Indiana Child Support Guidelines worksheets-one or more depending upon the facts. Further, the worksheet(s) shall, when reasonably possible, be delivered to the other party simultaneously with the Form, but, in any event, within 10 days of receiving the other party's Form. The worksheets shall be promptly supplemented if any changes occur prior to resolution.

B. Support settlement agreements. If an agreement concerning support provides any deviation from the Guidelines, the parties shall present to the court a written explanation, with supporting documents, justifying the deviation.

### Rule 4. Visitation orders

A. Reasonable visitation. It is the express preference of the Lake Circuit and Superior Courts that visitation be defined simply as "reasonable visitation upon reasonable notice." The detailed orders suggested in Appendix B are designed for those situations when the parties are unable to resolve visitation without having specific guidelines. "Reasonable visitation" means that parties take into consideration the schedules and the economic and geographic circumstances of each other as well as the schedules and activities of the children. "Reasonable visitation" does not mean any particular pattern; rather, it is that which best fits the needs of that particular case at that particular time.

B. Visitation guidelines. The Lake Circuit and Superior Courts have prepared suggested forms of visitation as well as general rules applicable to virtually all visitation orders (see Appendix B). Consequently, if the parties cannot agree on visitation, one of these forms shall be adopted unless the court is convinced otherwise.

### Rule 5. Preparation of orders

A. Exchange. It shall be the duty of the parties' attorneys to prepare decrees and other orders as directed by the court. The attorney so directed shall first submit them to all other attorneys of record, to enable them to challenge any provision thereof before submission to the court for entry.

B. Additions. If the preparing attorney believes the other is unreasonably withholding approval as to form, or if either believes the other is attempting to make additions not addressed by the court, either may submit a proposed form to the court, and shall attach thereto a written explanation of the dispute. The other shall have 7 days to respond before the court enters any order. The court may enter sanctions against a party who has unreasonably withheld approval or attempted to make additions not addressed by the court.

C. Signatures. The signature line for each counsel or pro se litigant shall indicate "Approval As To Form". Such signature indicates that the order correctly reflects the court's ruling. It does not necessarily signify that the signing party or attorney agrees with that ruling.

#### Rule 6. Sanctions

If a party or counsel fails to timely prepare, exchange or file a Form or child support worksheet, or to cooperate in providing information therefor in a timely manner, either is subject to the sanctions of Trial Rule 37.

#### Rule 7. Attorney fee requests

A. Affidavits. When attorney fees (except those sought provisionally) are requested from the opposing party, the requesting attorney shall submit an appropriate affidavit, which the court shall admit as an exhibit.

B. Written requirements. The affidavit shall indicate the:

- (1) requested fee and the basis thereof;
- (2) amount counsel has billed, contracted for or been promised; and
- (3) amount counsel has received from all sources.

A copy of the written fee contract, if any, shall be attached to the affidavit and be deemed a part thereof.

Opposing counsel may cross-examine the requesting attorney as to any of the submitted material.

#### Rule 8. Agreed matters--Submission

No agreed matter shall be submitted unless accompanied with a signed agreement, and other appropriate documents, such as a decree, a wage-withholding order, or a Qualified Domestic Relations Order. However, if the parties reach a settlement "on the courthouse steps", then the court will accept evidence of that settlement on the record, and enter the appropriate order upon preparation and filing by counsel within 21 days after submission, or such additional time as the court may allow.

A. Mutual restraining orders. Orders restraining only the non-filing spouse will not be issued as to matters covered by Trial Rule 65(E) at any time. Rather, only a joint preliminary injunction will be entered, if requested, consistent with that rule.

B. Orders where one party has vacated. If, at the time of filing, one spouse has already vacated the premises, a restraining order prohibiting re-entry and awarding temporary, pre-hearing, custody to the person having custody of any children may be entered, if requested by a verified pleading indicating those facts. The order may include any other provisions necessary and appropriate to maintain the status quo.

C. Eviction without notice. A restraining order without notice which would evict a spouse from the marital residence may be issued only upon the following bases:

- (1) there are alleged specific facts indicating more than a generalized fear of an adverse reaction;
- (2) there is evidence of actual or threatened physical or emotional abuse sufficient to find a risk of imminent danger; and
- (3) but for exceptional circumstances, the movant is physically available to testify.

In addition to the foregoing criteria, the court may consider any other relevant social or economic factors, including whether either party has a reasonably convenient alternative residence pending hearing on provisional orders.

#### APPENDIX A. FINANCIAL DECLARATION FORM

#### FINANCIAL DECLARATION FORM

#### STATE OF INDIANA: CIRCUIT AND SUPERIOR COURTS OF LAKE COUNTY

IN RE THE MARRIAGE OF: CAUSE NO. \_\_\_\_\_

\_\_\_\_\_  
Petitioner

and

\_\_\_\_\_  
Respondent

FINANCIAL DECLARATION OF

Husband [FN\*] \_\_\_\_\_ Wife [FN\*] \_\_\_\_\_  
Address \_\_\_\_\_ Address \_\_\_\_\_

Soc. Sec. No. \_\_\_\_\_ Soc. Sec. No. \_\_\_\_\_

Badge/Payroll No. \_\_\_\_\_ Badge/Payroll No. \_\_\_\_\_  
Occupation \_\_\_\_\_ Occupation \_\_\_\_\_  
Employer \_\_\_\_\_ Employer \_\_\_\_\_  
Birth Date \_\_\_\_\_ Birth Date \_\_\_\_\_

Date of Marriage \_\_\_\_\_  
Date of Physical Separation \_\_\_\_\_  
Date of Filing \_\_\_\_\_

[FN\*]In paternity or post-decree matters, these designations are more  
appropriately "Father" (or "Putative Father") and "Mother".

Names and dates of birth of all children of this relationship, whether by birth or adoption:

\_\_\_\_\_  
—  
  
\_\_\_\_\_  
—  
  
\_\_\_\_\_  
—

NOTE: THIS DECLARATION IS CONSIDERED MANDATORY DISCOVERY AND MUST  
BE EXCHANGED BETWEEN THE PARTIES WITHIN THE TIME PRESCRIBED BY THE  
LAKE COUNTY RULES OF FAMILY LAW. PARTIES NOT REPRESENTED BY  
COUNSEL ARE REQUIRED TO COMPLY WITH THESE PRACTICES. FAILURE BY  
EITHER PARTY TO COMPLETE AND EXCHANGE THIS FORM AS REQUIRED WILL  
AUTHORIZE THE COURT TO IMPOSE THE SANCTIONS SET FORTH IN RULE 6 OF  
THE LAKE COUNTY RULES OF FAMILY LAW.

#### PART I. STATEMENT OF INCOME, EXPENSES AND DEBTS

Attach copies of your state and federal income tax returns for the last three taxable years and  
wage statements from your employer for the last eight weeks.



HUSBAND      WIFE

A. GROSS WEEKLY INCOME from: Salary and wages, \_\_\_\_\_  
including commissions, bonuses, allowances  
and overtime, payable \_\_\_\_\_ (pay  
period)

Note: If paid monthly, determine weekly income  
by dividing monthly income by 4.3

Pensions and Retirement Plans \_\_\_\_\_

Social Security \_\_\_\_\_

Disability, Unemployment Compensation, and  
Supplemental Unemployment Benefits \_\_\_\_\_

Public Assistance (Welfare, AFDC payments,  
etc.) \_\_\_\_\_

Food Stamps \_\_\_\_\_

Child support received for any child(ren) not \_\_\_\_\_  
born of the parties to this marriage

Dividends and Interest \_\_\_\_\_

Rents received \_\_\_\_\_

All other sources (specify) \_\_\_\_\_

\_\_\_\_\_  
TOTAL GROSS WEEKLY INCOME                      \$ \_\_\_\_\_ \$ \_\_\_\_\_

B. ITEMIZED WEEKLY DEDUCTIONS

(from gross income):

State and Federal Income Taxes \_\_\_\_\_

Number of exemptions taken

Husband: \_\_\_\_\_ Wife: \_\_\_\_\_

Social Security \_\_\_\_\_

Medical Insurance

(list all persons covered): \_\_\_\_\_

\_\_\_\_\_  
Coverage:

Medical    ( )

Dental    ( )

Eye Care    ( )

Psychiatric    ( )

Union or other dues \_\_\_\_\_

Retirement or pension fund:

Mandatory    ( )

Optional    ( ) \_\_\_\_\_

Child support withheld from pay (not including \_\_\_\_\_)

this case)  
 Garnishments  
 (itemize on separate sheet) \_\_\_\_\_  
 Credit Union loans \_\_\_\_\_  
 Savings:  
   Thrift Plans                ()  
   Credit Union savings      ()  
   Bonds                      ()  
   Other (specify)            () \_\_\_\_\_  
 Other (specify): \_\_\_\_\_  
 TOTAL WEEKLY DEDUCTIONS               \$ \_\_\_\_\_ \$ \_\_\_\_\_

C. WEEKLY DISPOSABLE INCOME

(A minus B: Subtract Total Weekly Deductions \$ \_\_\_\_\_ \$ \_\_\_\_\_  
 from Total Weekly Gross Income)

D. IN ALL CASES INVOLVING CHILD SUPPORT: Prepare and attach an Indiana Child Support Guidelines worksheet (with documentation verifying your income).  
 If, to complete, you need the other party's Form, exchange within ten (10) days of its receipt.

E. SELECTED MONTHLY LIVING EXPENSES (Specify which party is the custodial parent and list the name and relationship of each member of the household whose expenses are included.):

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

	HUSBAND	WIFE
Rent or mortgage payments (residence)	_____	_____
Real property taxes (residence), if not included in mortgage payment	_____	_____
Insurance (residence), if not included in mortgage payment	_____	_____
Utilities (including water, sewer, electricity, gas, heat and garbage)	_____	_____
Telephone	_____	_____
Child support not withheld from pay (not including this case)	_____	_____
Medical (not covered by insurance)	_____	_____
Dental (not covered by insurance)	_____	_____
Insurance (excluding that payroll-deducted but including life, health, accident, liability, disability and automobile)	_____	_____

School (including, as applicable, colleges, \_\_\_\_\_  
universities and trade schools)  
Child care and pre-school \_\_\_\_\_  
Transportation (other than automobile) \_\_\_\_\_  
Automobile payments \_\_\_\_\_  
Automobile insurance (not included in \_\_\_\_\_  
automobile payments)  
Other (specify) \_\_\_\_\_  
TOTAL MONTHLY EXPENSES \_\_\_\_\_  
AVERAGE WEEKLY EXPENSES \_\_\_\_\_  
(Divide total monthly expenses by 4.3) \_\_\_\_\_  
Note: Indicate which of the above expenses are delinquent and the amount  
thereof.

F. DEBTS AND OBLIGATIONS (Include credit union) Attach additional sheets as  
needed:

CREDITOR'S NAME	DATE PAYABLE	BALANCE	MONTHLY PAYMENT
-----			
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
TOTAL	_____	_____	_____

ATTACH A COPY OF THE MOST RECENT STATEMENT FOR EACH DEBT. Note:  
Indicate  
any special circumstances; that is, premarital debts; debts in arrears  
on the date of physical separation or date of filing; the number of  
payments in arrears and the amount thereof.

PART II. NET WORTH

List all property owned, whether individually or jointly. Indicate how the title is held: (H)  
Husband, (W) Wife, or (J) Jointly. WHERE SPACE IS INSUFFICIENT FOR COMPLETE  
INFORMATION OR LISTING, PLEASE ATTACH A SEPARATE SCHEDULE.

Ownership	Value	Balance(s) Owed
H/W/J		(Identify

Creditors)

A. HOUSEHOLD FURNISHINGS

(Value of furniture,  
appliances and  
equipment, as a whole;  
that is, you need not  
itemize)

\_\_\_\_\_

B. AUTOMOBILES (Year and  
Make)

Indicate regular driver H/W/J	Ownership	Value (Identify Creditors)	Balance(s) Owed
----------------------------------	-----------	----------------------------------	-----------------

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

C. SECURITIES

(stocks, bonds, etc.)

Company	Ownership H/W/J	Value	No. of Shares
---------	--------------------	-------	---------------

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

D. CASH AND DEPOSIT ACCOUNTS (including banks; savings and loan associations;  
credit unions; thrift plans; mutual funds; certificates of deposit;  
savings and checking accounts; IRAs; and annuities):

Institution	Ownership H/W/J	Value	Account No.
-------------	--------------------	-------	-------------

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

## E. LIFE INSURANCE

Company/ Policy No.	Ownership H/W/J	Beneficiary Amount or Group	Face Whole Life; Amount	Type: Term; Loan	Cash Value/
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

## F. RETIREMENT PLANS

Name of Plan	Ownership H/W/J	Vested Yes/No	Monthly Benefit at Earliest Retirement Date	Present Value (if known)
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Attach documents from each plan verifying information. If not yet received, attach a copy of your written request to the Plan(s).

## G. REAL ESTATE (attach a separate sheet with the following information for each additional property):

Address \_\_\_\_\_ Type of property \_\_\_\_\_  
 \_\_\_\_\_ Date of acquisition \_\_\_\_\_  
 Original cost \$ \_\_\_\_\_ Present value \$ \_\_\_\_\_  
 Cost of additions \$ \_\_\_\_\_ Basis for valuation \_\_\_\_\_  
 Total cost \$ \_\_\_\_\_ (attach appraisal if obtained)  
 Mortgage balance \$ \_\_\_\_\_  
 Other liens \$ \_\_\_\_\_  
 Equity \$ \_\_\_\_\_  
 \_\_\_\_\_  
 Monthly payment \$ \_\_\_\_\_ To whom paid \_\_\_\_\_  
 Taxes (if not included in payment) \$ \_\_\_\_\_ Insurance (if not included in payment) \$ \_\_\_\_\_  
 Special Assessments \_\_\_\_\_  
 Individual contributions to the real estate (for example, inheritance; pre-marital assets; or personal loans):  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**H. BUSINESS OR PROFESSIONAL INTERESTS**

(indicate name, share, type of business, and value less indebtedness):

---

---

---

---

**I. OTHER ASSETS** (that is, specify coin, stamp or gun collections, or other items of unusual value). Use additional sheets as needed:

---

---

---

---

**J. ATTACH ALL AVAILABLE DOCUMENTATION TO VERIFY VALUES.**

**PART III. ARREARAGE COMPUTATION**

If there is alleged the existence of a support or other arrearage, attach all records or other evidence regarding payment history and compute the arrearage as of the date of the filing of the petition or motion which raises that issue.

**PART IV. VERIFICATION**

I declare, under the penalty of perjury, that the foregoing, including any valuations and attachments, is true and correct, and that I have made a complete and absolute disclosure of all of my assets and liabilities. Furthermore, I understand that if, in the future, it is proven to this court that I have intentionally failed to disclose any asset or liability, I may lose the asset and may be required to pay the liability. Finally, I acknowledge that sanctions may be imposed against me, including reasonable attorney's fees and expenses incurred in the investigation, preparation and prosecution of any claim or action that proves my failure to disclose assets or liabilities.

Date: \_\_\_\_\_

PARTY'S SIGNATURE

PART V. ATTORNEY'S CERTIFICATION

I have reviewed with my client the foregoing information, including any valuations and attachments, and sign this certificate consistent with my obligation under Trial Rule 11.

Date: \_\_\_\_\_

ATTORNEY'S SIGNATURE

Name:

Indiana Attorney Number:

Address:

Phone:

APPENDIX B. LAKE COUNTY VISITATION GUIDELINES

PREAMBLE

The Lake County Visitation Guidelines are predicated on the concept that it is usually in the children's best interests that each parent have frequent, meaningful and continuing contact with them. The parents, in exercising visitation, should be flexible enough to adapt to the circumstances of each other and to the children. When the parents' maturity, personality and communication skills are adequate, the ideal situation is reasonable visitation upon reasonable notice, since that provides the greatest flexibility. The next best choice is a somewhat detailed visitation agreement made by the parties to fit their particular needs, while remaining mindful that circumstances may, at times, require modifying visitation, in which case it is the requesting party's duty to give as much notice as circumstances permit.

Visitation at reasonable frequencies and for reasonable durations upon giving notice to the custodial parent is the goal. However, when the facts establish that the goal cannot be met, the following guidelines represent the minimum visitation a parent should be allowed in order to maintain frequent, meaningful, and continuing contact with a child.

A strict and totally inflexible application of these guidelines to all cases or daily situations can easily lead to harsh and unreasonable results. These guidelines are not meant to foreclose the court from ordering, or the parties from agreeing to, such additional visitation as may be

reasonable under the circumstances. Conversely, in some situations less than the guideline recommended visitation for short periods of time may be necessary or appropriate.

Parents should at all times avoid speaking negatively about each other and should firmly discourage such conduct by relatives or friends. Children should never be used by one parent to spy on the other. Each parent should encourage the children to respect the other. The basic rules of conduct and discipline established by the custodial parent should be the base-line standard for both parents, and consistently enforced by both, so that the children do not receive mixed signals.

Parents are encouraged to have their children maintain ties with both the maternal and paternal relatives. In most cases, the children will visit with the paternal relatives during times the children are with their father and with the maternal relatives when with their mother.

#### GENERAL RULES APPLICABLE TO ALL VISITATION

1. Parental Communication. Parents shall at all times keep each other advised of their home and work addresses and telephone numbers. So far as possible, all communication concerning the children shall be conducted between the parents in person, or telephonically at their residences (and not at their places of employment).

2. Grade Reports and Medical Information. The custodial parent shall provide the non-custodial parent with grade reports and notices from school as they are received and shall, consistent with Indiana law, not interfere with the right of the non-custodial parent to communicate concerning the children directly with the school and with the children's doctors and other professionals, outside the presence of the custodial parent. Each parent shall immediately notify the other of any medical emergencies or serious illnesses of the children. The custodial parent shall notify the non-custodial parent of all school or other events (like Church or Scouts) involving parental participation. If the children are taking medications, the custodial parent shall provide a sufficient amount and appropriate instructions.

3. Visitation Clothing. The custodial parent shall send an appropriate supply of the children's clothing with them, which shall be returned clean (when reasonably possible), with the children, by the non-custodial parent. The non-custodial parent shall advise, as far in advance as possible, of any special activities so that the appropriate clothing may be sent.

4. Withholding Support or Visitation. Neither visitation nor child support is to be withheld because of either parent's failure to comply with a court order. Only the court may enter sanctions for non-compliance. The children have a right both to support and visitation, neither of which is dependent upon the other. In other words, no support does not mean no visitation, and no visitation does not mean no support. If there is a violation of either a visitation or a support order, the exclusive remedy is to apply to the court for appropriate sanctions.



5. Adjustments to This Visitation Schedules. Although these guidelines create a rather specific schedule, the parties are expected to fairly modify visitation when family necessities, illnesses or commitments reasonably so require. The requesting party shall give as much notice as circumstances permit. [FN1]

6. Insurance Forms. A non-custodial parent who has medical insurance coverage on the children shall supply, as applicable, insurance forms and a list of insurer-approved or HMO-qualified health care providers in the area where the custodial parent lives. A custodial parent who, except in an emergency, takes the children to a doctor, dentist or other provider not so approved or qualified shall pay any additional cost thus created. However, when there is a change in insurance which requires a change in medical care providers and a child has a chronic illness, thoughtful consideration should be given by the parties to what is more important: allowing the child to remain with the original provider or the economic consequences of that decision. When there is an obligation to pay medical expenses, the parent responsible therefor shall be promptly furnished with the bill by the other. The parents shall cooperate in submitting bills to the appropriate insurance carrier. Thereafter, the parent responsible for paying the balance of the bill shall make arrangements directly with the health care provider and shall inform the other parent thereof.

7. Visitation Missed Due to Illness. When, for good cause, such as illness, a scheduled visitation cannot occur, a substituted visitation date shall be arranged, as quickly as possible, which is mutually agreeable. Each party shall, accordingly, timely advise the other when a particular visitation cannot be exercised.

8. Visitation a Shared Experience. Because it is intended that visitation be a shared experience, unless these Rules, the Visitation Guidelines, or circumstances, such as age, illness, or the particular event, suggest otherwise, all of the children shall participate in any particular visitation.

9. Privacy of Residence. A party, even if they have a property interest in the residence of the other, may not enter that residence, except by express invitation of the other parent. Accordingly, in effectuating visitation, the children shall be picked up at, and returned to, the front entrance of the appropriate residence.

10. Subsequent Relocation of Parents. In cases where this jurisdiction is the residence of both parents and children at the time of the initial order, and one of the parents later leaves the jurisdiction, thus changing the visitation pattern, the court may consider imposing most of the costs of transportation necessary to facilitate future visitation on the party that moved. However, the court may also consider other factors, such as the economic circumstances of the parents and the reasons prompting the move.

11. Mediation Preferred. Whenever it is economically feasible, mediation involving parties and their children should be used prior to initiating litigation of visitation or custody issues.

12. Basic Considerations. In considering any visitation issue, parents and the court must always keep in mind the following:

- a. The wishes of the child;
- b. The wishes of the child's parent or parents;
- c. The interaction and interrelationship of the child with his parent or parents, his siblings, and any other person who may significantly affect the child's best interest;
- d. The child's adjustment to his home, school and community; and
- e. The mental and physical health of all individuals involved.

13. Transportation to Effectuate Visitation. Parents shall share the driving responsibilities to facilitate visitation. The non-custodial parent shall pick up the children at the start of visitation and the custodial parent shall pick up the children at the end of visitation. This will not automatically apply to situations where the mode of transportation is not an automotive vehicle, or where the parents live more than 150 miles apart, although the shared responsibility for transportation may be considered the norm.

14. Telephonic Communication. Both parents are to have reasonable phone access to their children at all times. Telephonic communication with the children by either parent to the residence where the children are located shall be conducted at reasonable hours, and intervals, and at the expense of the initiating household. The children may of course call either parent, at reasonable hours, frequencies and costs.

15. Notice of Canceled Visitation. Whenever possible, the non-custodial parent shall give a minimum of three days notice of their intent not to exercise all or part of a scheduled visitation. When such notice is not reasonably possible, the maximum notice permitted by the circumstances, and the reason therefor, shall be given. The custodial parent shall give the same type of notice when good cause exists necessitating cancellation or modification of a scheduled visitation.

16. Pick Up and Return Times. Parents must be punctual in picking up and returning children from visitation. They are to arrive at the agreed time-not substantially earlier or later. Anything over 10 minutes is presumed substantial.

17. Additional Visitation-Flexibility. Visitation should be liberal and flexible. These guidelines are not meant to foreclose the parents from agreeing to, or the court from granting, such additional visitation as may be reasonable at any given time. Further, in addressing all visitation issues, both parents should exercise sensibility, flexibility and reasonableness.

18. Work Related Child Care. Each parent shall have the right of first refusal to provide child care or baby sitting when the other parent will be working. This does not apply when it would

disrupt the children's normal sleep pattern. Whenever there is a need for work related child care, the working parent shall make a good faith effort to offer the other parent the opportunity to provide same. The parent who is offered the opportunity to provide the work related child care is under no obligation to accept, but if that parent accepts, that parent shall not charge for providing the child care. This provision is intended to provide each parent additional access to the child whenever possible.

This provision does not apply when child care can be provided by a qualified adult relative or spouse who is a regular member of the household of the parent who will be absent. A qualified individual is anyone who by age and ability can properly care for the children.

19. Modification Proceedings. The adoption of these amended guidelines may constitute a sufficient basis to support a modification of visitation.

20. Contempt Sanctions. Repeated, unjustified, violations of any of these general rules or of any of the provisions contained in these guidelines may subject the offender to contempt sanctions.

## VISITATION WHEN THERE IS SOLE CUSTODY OR PRIMARY PHYSICAL CUSTODY AND PARENTS RESIDE NO MORE THAN 150 [FN2] MILES APART

### A. Children Under 4 Years of Age.

1. General Philosophy Applying to This Section. The first few years of a child's life are recognized as being critical to that child's ultimate development. Psychological studies have documented that serious and often permanent damage to a child may occur as a result of hostile dissolution proceedings and from the child's separation from the primary care provider. Studies have also documented the importance of continuity in a young child's environment.

For these reasons it is critical that children of "tender years" be afforded ample opportunity to bond with both parents. Parents, therefore must be flexible in creating for each other opportunities to share in both the routine and special events of their child's early development.

Further, in drafting these guidelines, it is recognized that young children thrive when both parents take an active role in parenting and studies have documented the important role played by both parents in early childhood development and child rearing. It is also noted that in many instances both parents are employed and thus they will need to cooperate to balance their work schedules and their time with their young children.

In applying and modifying these guidelines to particular situations it is intended that these realities of life should be recognized by parents and the courts.

### 2. Regular Visitation for Children under 4 Years of Age

(a) Up to three non-consecutive "days" per week without interfering with the child's normal sleep pattern. The duration of each "day" to be determined by the non-custodial parent's work schedule and availability, but not to exceed 14 hours. The child's normal sleep pattern should not be changed in order to facilitate the start or end of a visitation period. Recognizing that everyone's work schedule varies, flexibility should be implemented as to the specific times of visitation. Similarly, in recognition of the need to integrate the child into the households of both parents, the effort should be made to provide the child with balanced weekend access to both parents, provided that the work schedules of both parents will accommodate this.

(b) If the non-custodial parent can demonstrate that they have had substantial care responsibilities for the child on a weekly basis during the preceding one year time period, then visitation may also include overnights.

(c) If the non-custodial parent has not previously exercised substantial care responsibilities for the child, then visitation should not include overnights prior to the child's third birthday.

3. Extended Visitation Under 4. There shall be no extended visitation by the non-custodial parent with respect to children under the age of four except by mutual agreement of the parents.

4. Holidays and Other Special Days. Holidays, Children's Birthdays, Mother's Day and Father's Day shall be treated the same as for children 4 years of age and older except that the above guidelines concerning overnights or lack thereof shall apply. This means that at appropriate times the child shall be with the non-custodial parent on these special days.

## B. CHILDREN 4 YEARS OF AGE AND OLDER.

### 1. Regular Visitation

(a) Weekends. Alternate weekends from Friday at 5PM to Sunday at 7PM (the starting and ending times may change to fit the parents' schedules).

(b) Weekdays. For children four years of age and older where the distance between parents' residences makes it reasonable, the non-custodial parent may have the children once per week, from the time they are out of school until one hour before their normal bed time. If the children are not in school, the time that visitation is to begin shall be based on the availability of the non-custodial parent. Depending on how much of this time is used, it is the non-custodial parent's obligation to feed the children and to see that any school assignments are completed. It is anticipated that, depending upon work schedules and location of residences, some individuals will only be able to use an hour or two of this time while others may be in a position to use five or six hours of time.

Where the distance from the non-custodial parent's residence makes it reasonable, this weekday visitation may be extended to an overnight stay. In such circumstances, the responsibility of feeding the children the next morning, getting the children to school or returning them to the

residence of the custodial parent, if the children are not in school, shall fall on the non- custodial parent.

Where reasonable, if mid-week overnight visitation is used, the non-custodial parent shall return the children's clothing and belongings to the custodial parent at the same time that the children are brought to school.

2. Mother's Day-Father's Day. The alternate weekends will be shifted, exchanged or so arranged that the children are with their mother each Mother's Day weekend and with their father each Father's Day weekend. Conflicts between these special weekends and regular visitation shall be resolved pursuant to paragraph 8 below.

3. Extended Visitation (Children 4, 5 and 6 Years Old). Up to four non- consecutive weeks during the year, the choice of the number to be up to the non-custodial parent. A week shall consist of seven consecutive days. At least 60 days advance notice of the intent to use a week shall be given.

4. Extended Visitation (children Over 6). One-half of the summer vacation. At the option of the non-custodial parent, the time may be either consecutive or split into two segments. If the children attend summer school and it is impossible for the non-custodial parent to otherwise schedule this visitation that parent may elect to take that period when the children are in summer school (and be responsible for their attendance and transportation). The non- custodial parent shall give notice of the time they will use 60 days before school ends.

During any extended summer visitation of more than two consecutive weeks, the regular visitation schedule shall apply to the custodial parent, unless impracticable because of distance.

Similarly during the summer period when the children are with the custodial parent for more than two consecutive weeks, the non-custodial parents regular visitation continues, unless impracticable because of distance created by out of town vacations.

5. Winter Vacation. One-half the school winter vacation, a period which begins the evening the child is released from school and continues to the evening of the day before the child will return to school. If the parents cannot agree on the division of this period, the non-custodial parent shall have the first half in even-number years. In those years when Christmas does not fall in a parent's week, that parent shall have the children from Noon to 9PM on Christmas Day. For pre-school children, the same schedule shall apply, and the winter vacation period shall be determined by the vacation period of the public grade school in the custodial parent's school district.

6. Holidays. [FN3] Parties shall alternate the following holiday weekends: Easter, Memorial Day, the 4th of July, Labor Day and Thanksgiving. Thanksgiving will begin on Wednesday evening and end on Sunday evening; Memorial Day and Labor Day weekends will begin on Friday evening and end on Monday evening; while the 4th of July, when it does not fall on a

weekend, shall include the weekend closest to the 4th, except when the 4th falls on a Tuesday, Wednesday or Thursday then it shall be an overnight. Holiday weekends begin at 5PM and end at 7PM.

During that period of a child's life (approximately ages 2 to 12) when Halloween is a significant holiday due to costumes and trick or treating, this activity shall be alternated annually.

7. Children's Birthdays. Like the holidays, the children's birthdays shall be alternated annually between the parents. When a birthday falls on a weekend, it shall extend to the full weekend, and any resulting conflict with regular visitation shall be resolved pursuant to paragraph 8. When a birthday falls on a weekend, it shall be celebrated, depending on the availability of the non- custodial parent, from the end of school until one hour before the normal bed time.

8. Conflicts Between Regular and Holiday Weekends. When there is a conflict between a holiday weekend [FN4] and the regular weekend visitation, the holiday takes precedence. Thus, if the non-custodial parent misses a regular weekend because it is the custodial parent's holiday, the regular alternating visitation schedule will resume following the holiday. If the non-custodial parent receives two consecutive weekends because of a holiday, regular alternating visitation will resume the following weekend with the custodial parent.

### C. CHILDREN 14 YEARS OLD AND OLDER.

1. General Visitation. The Visitation Guidelines for children over 14 years of age are the starting point for establishing a shared parenting schedule, subject to modification consistent with the philosophy expressed in paragraph 2 of this section.

2. Special Considerations. The special needs of adolescents must be recognized in cases involving visitation with children age 14 years and older. Adolescence is a time in life when children are moving toward adulthood. They are learning to take greater responsibility for decision-making and management of their lives. It is a time when peer group activities and school activities are of particular importance. A balance is needed between the special needs of adolescent children 14 years and older and the needs of both the custodial and non-custodial parents. When arranging visitation, care should be taken to allow teenagers to participate in their usual activities. This may mean driving to and from activities, having a friend come along occasionally, and being flexible in visitation arrangements. Special needs of adolescents include such things as academic, extracurricular, and social activities. Such consideration particularly involves talking with the adolescents about their plans and negotiating solutions which are mutually respectful of the adults and the adolescents. There needs to be a balance reached so that adolescent wishes are considered, but do not necessarily dictate the result.

Whenever it is economically feasible, mediation involving the parents and their adolescent children should be used before resorting to court. In short, there should be a good faith attempt by all parties to exercise sensibility, flexibility and reasonableness when dealing with shared parenting issues involving teenage children.

#### D. MULTIPLE CHILDREN OF DIFFERENT AGES.

When a family has several children of different ages, the presumption is that all the children should remain together at times of visitation. However, the guideline standards set for young children should not be ignored, and thus there will be situations where not all of the children participate in visitation at the same time. On the other hand, when there are younger and older children, it will generally be appropriate to accelerate, to some extent, the time when the younger children move into overnight or weekend visitation, in order to keep sibling relationships intact.

#### VISITATION WHEN THERE IS SOLE CUSTODY OR PRIMARY PHYSICAL CUSTODY AND PARENTS RESIDE MORE THAN 150 MILES APART

1. Children Under 4. Up to six one week segments annually, each separated by at least six weeks. Including pickup and return, no segment shall exceed 7 days.
2. Children 4, 5 & 6. Up to six non-consecutive, two-week segments annually, each separated by at least six weeks. Including the commencement and return days, no segment shall exceed 16 days.
3. Children Over 6. All but three weeks of the school summer vacation period and, all but three days of the school Winter vacation and the entire Spring Break, including where applicable both weekends. However, such visitation shall be arranged so that the custodial parent shall have Christmas Eve and Christmas Day, and Easter Sunday, in alternate years, if celebrated.
4. Telephone Calls. Telephone visitation initiated by a parent to the children, or by the children to a parent, shall be conducted at reasonable hours and frequencies, and at the expense of the household from where the call is initiated. The parent with whom the children are staying shall make sure the children are reasonably available for these phone calls.
5. Priority of Summer Visitation. Summer visitation with the non-custodial parent takes precedence over summer activities (such as Little League) when the visitation cannot be reasonably scheduled around such events. Even so, the conscientious non-custodial parent will often be able to enroll the children in a similar activity.
6. Notice. The non-custodial parent shall give the custodial parent at least 60 days notice of the time they intend to exercise extended visitation. Then, within 15 days, the custodial parent shall give notice of any conflicts. The parties shall then attempt in good faith to resolve any conflicts.
7. Additional Visitation. Where distance and finances permit, additional visitation should be encouraged. When the non-custodial parent is in the area where the children reside, or the children in the area where the non-custodial parent resides, liberal visitation shall be allowed. Further, it is the obligation of the custodial parent to advise the non-custodial parent, as far in

advance as possible, of the times the children will be in the area where the non-custodial parent resides, so that reasonable additional visitation can be arranged.

[FN1] The common belief that the law requires 24 or 48 hours notice is not correct and the maximum notice possible is to be expected.

[FN2] This 150 mile rule is not to be read literally. For instance if one parent lives in Whiting, Indiana and the other in Indianapolis, weekend visitation with shared driving would remain viable, whereas weekday visitation would probably be an unreasonable option.

[FN3] If religion makes the religious based holidays that are enumerated in these guidelines inappropriate, then similar appropriate holidays shall be substituted, or where appropriate no holiday visitation shall apply. However, these deviations shall not affect the Winter school break as defined in these guidelines, although they may affect the Christmas day visitation.

[FN4] Holiday Weekend as used here includes all weekends listed in paragraphs 2, 6 & 7.

## **CRIMINAL RULES**

### **Local Rule for the Assignment of Criminal Cases in Lake County**

All misdemeanors and felonies not filed by the prosecuting attorney in the city or town courts of the circuit shall be filed, assigned, and reassigned only in accordance with this rule.

#### **A. Filing.**

1. Except as otherwise provided, unless the prosecuting attorney elects to file a misdemeanor charge in a city or town court, all misdemeanors shall be filed in the county division of the superior court.
2. All murder, Class A, B and C felonies shall be filed in the criminal division.
3. Except as otherwise provided, the prosecuting attorney may file a Class D felony in either the county or criminal division.
4. If a defendant who is being charged with a Class D felony is on probation to the county division, has other charges pending in the county division, or has previously been sentenced in the county division for an offense, then the Class D felony shall be filed in the county division.



5. If a defendant who is being charged with a Class D felony is on probation to the criminal division, has other charges pending in the criminal division, or has previously been sentenced in the criminal division for an offense, then the Class D felony shall be filed in the criminal division.

6. Notwithstanding the filing requirements above, all charges involving multiple offenses or defendants shall be filed in the same division as one another if the charges arise from:

a. a single act;

b. a series of acts connected together or constituting parts of a single scheme or plan;

c. a conspiracy; or,

d. a number of offenses so closely connected in respect to time, place, and occasion that it would be difficult to separate proof of one offense from proof of the others.

7. Except as otherwise provided, and whenever possible, charges which have previously been filed and dismissed may only be refiled in the same division. This includes all charges arising out of the same offense report, arrest report, or set of operative facts.

#### B. Assignment.

1. Charges shall be assigned within a division according to the following rules, which are listed in order of precedence:

a. Charges involving multiple offenses or defendants shall be assigned to the same judge if the charges arise from:

(1) a single act;

(2) a series of acts connected together or constituting parts of a single scheme or plan;

(3) a conspiracy; or,

(4) a number of offenses so closely connected in respect to time, place, and occasion that it would be difficult to separate proof of one offense from proof of the others.

b. Charges filed against defendant who has other charges pending shall be assigned to the judge handling the pending charges.

c. Charges filed against a defendant who has previously been sentenced by a judge shall be assigned to that same judge. If the defendant has previously been sentenced by more than one judge of the division, then the case shall be assigned to the judge who still has jurisdiction over

the defendant through probation, if applicable, or else to the judge who sentenced the defendant most recently.

d. Charges against a defendant who has previously been a defendant in the division shall be assigned to the same room of the division.

e. If more than one defendant in a new case has other charges pending before separate judges within the same division, the new case shall be assigned to the judge with the greater number of cases pending against all codefendants in the case. If the number of such pending cases is equal for two or more judges, then the case shall either be randomly assigned to one of those judges or else be assigned to the judge whose cases are closer to disposition at the time of the new filing.

f. Charges filed in the county division involving violations of IC 35-48 shall be assigned to Room 2 of that division if the defendant is a resident of the city of Gary or the offense is alleged to have occurred in Gary.

g. All other cases shall be randomly assigned so that the assignment of all criminal cases to judges within a division is kept relatively equal.

2. Charges which have been dismissed and refiled shall be assigned to the same judge who had jurisdiction of the charges when they were dismissed. This includes all charges arising out of the same offense report, arrest report, or set of operative facts.

#### C. Reassignment.

If a motion for change of judge is granted in a case or an order of disqualification or recusal is entered in the case, then the case shall be reassigned to another judge of the same division following the rules of precedence set forth above.

#### D. Transfer.

This rule shall not prohibit the court from transferring a case from one judge to another or from one division to another in accordance with statute. This rule shall also not be understood to encourage or permit the transfer of a case merely on the agreement of the prosecution and defense.